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PRE-APPEAL BRIEF REQUEST FOR REVIEW		Docket Number (Optional)		
		2003P01283WOUS		
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to "Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450" [37 CFR 1.8(a)]	Application Number		Filed	
	10/575,176		04/07/2006	
oneFiled	First Named Inventor			
Signature	Helmut	Helmut Jerg et al.		
	Art Unit		Examiner	
Typed or printed name	1711		Jason Mark Heckert	
This request is being filed with a notice of appeal.  The review is requested for the reason(s) stated on the attached sheet(s).  Note: No more than five (5) pages may be provided.				
I am the applicant/inventor.	_/A	ndre Pallapie	eS/ Signature	
assignee of record of the entire interest. See 37 CFR 3.7.1 Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/66) attorney or agent of record.		Andre Pallapies		
		Typed or printed name		
		252-672-7927		
Registration number		Telephone number		
attorney or agent acting under 37 CFR 1.34.	Se	September 08, 2010		
Registration number if acting under 37 CFR 1.34 62,246		Date		
NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required.  Submit multiple forms if more than one signature is required, see below*.				
*Total of forms are submitted				

This collection of information is recuired by St U.S.C. (32. The information is required to obtain or retain a benefit by the public which is to fire (and by the USPTO to process) an application. Confidentially is governed by \$ U.S.C. (32. and \$7. CPR 111.1), 144 and 41.6. This collection is estimated to issue 2 minutes to complete, including gathering, preparing, and submitting the completed application from to the USPTO. Time will vary depending upon the individual case. Any comments on the manunt of times upon require to complete this form and/or suggestions for reducing this burden, should be sent to the firemation Officer, U.S. Petent and Trademark Office, U.S. Department of Commerce, P.O. Box 1490, Alexandria, VA 22313-1450. DO NOT SEND TESS OR COMPLETED FORMS TO THIS ADDRESS. SEND TO'M Mail Stop AR, Commissioner for Pleatins, P.O. Box 1490, Alexandria, VA 22313-1450.

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## STATEMENT OF ARGUMENTS IN SUPPORT OF PRE-APPEAL BRIEF REQUEST FOR REVIEW

Claims 25 and 28-32 are not unpatentable under 35 USC §103(a) over Pacella et al. (U.S. Patent No. 3,777,989) in view of German Patent Publication DE 200 07 044 (DE '044).

Claim 25 defines, *inter alia*, at least the bottom area of the washing container having a multi-planar surface with multiple spray devices lying in different planes within the washing container. As described in the specification, the use of multiple spray channels arranged at different heights promotes a uniform spray distribution of the washing liquid in the washing container. According to the Office Action, although this subject matter is lacking in the cited references, "the location of the spray channels along a multi-planar surface is considered to be a rearrangement that can be optimized through routine experimentation, as it only requires a relocation of the previously disclosed parts of Pacella and '044." Appellants respectfully disagree with this contention.

The proposed modification would not only require rearrangement, but also complete restructuring of the apparatus. That is, in order to meet this feature of the invention, the Pacella and DE '044 construction would require restructuring into multiple planes <u>and</u> the use of multiple spray channels in the multiple planes, respectively.

Such restructuring does not amount to a mere "rearrangement that can be optimized through routine experimentation." "Routine experimentation" relates to the discovery of optimum or workable ranges. See, for example, *In re Aller*, 220 F.2d 454 (CCPA 1955). The change from a planar surface with a spray channel to a multi-planar surface with a corresponding plurality of spray channels requires structural design modifications and retooling of fluid conduits, water sources, etc. These modifications are not merely workable ranges, but rather require significant engineering input. The proposed modifications are thus a product of improper hindsight.

In the "Response to Arguments" section in the Final Office Action, the Examiner contends that "one of ordinary skill is well aware that more spray channels located in different areas will provide a greater cleaning effect than one channel located in one

area." Appellants do not necessarily disagree with this contention. Merely because it is observed that a greater cleaning effect can be achieved with multiple spray devices, however, does not support a conclusion that it would have been obvious to modify the structure of Pacella and/or DE '044. That is, neither reference even remotely provides a teaching of the manner in which the fluid conduits can be rearranged, the positioning of inputs for the water sources, the multi-plane nozzle positioning, etc.

Additionally, none of the references of record even discloses spray nozzles positioned in multiple planes. Without the benefit of Appellants' disclosure, it is not clear from the applied references or the Office Action what teaching(s) in Pacella and DE '044 would lead those of ordinary skill in the art to not only use multiple spray channels, but also to arrange the multiple spray channels in multiple planes.

Appellants thus respectfully submit that the rejection of claim 25 should be withdrawn.

With regard to the dependent claims, Appellants submit that these claims are allowable at least by virtue of their dependency on an allowable independent claim and also because they recite additional patentable subject matter.

Claims 13-15, 17, 18 and 24 are not unpatentable under 35 USC §103(a) over Pacella in view of DE '044 and French Patent Publication 1 265 156 to Miliotis.

Independent claim 24 recites that the spraying device includes a spray cover having a substantially U-shaped cross-section, where free ends of the U-shaped spray cover are bent inward to fit the spray cover into the spray channel such that outward deflection of the free ends abuts the free ends against side walls of the spray channel. In this context, the Office Action contends that Miliotis discloses this subject matter. To the contrary, however, Miliotis does NOT disclose a manually releasable U-shaped channel with legs that fit into grooves. Rather, Miliotis discloses nozzle assemblies 4, 5 that are secured to a planar inside wall of a tank 1. See FIG. 1. The nozzles are connected to the tank 1 via devices 8, 9 (see page 2, first paragraph). Miliotis thus lacks at least the claimed free ends of a U-shaped spray cover fitting into a spray channel and the cooperative connection of the spray cover against the side walls of the spray channel.

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In the "Response to Arguments," the Examiner contends that "it appears as if the applicant is only considering Miliotis, not the combination of Pacella, '044, and Miliotis." In the grounds of rejection, the Examiner acknowledges that "Pacella and '044 do not teach U-shaped channels." Such channels are purportedly disclosed in Miliotis. As discussed above, however, this subject matter is also lacking in Miliotis. Claim 24 defines specific structure of the U-shaped channels, "where free ends of the U-shaped spray cover are bent inward to fit the spray cover into the spray channel such that outward deflection of the free ends abuts the free ends against side walls of the spray channel." None of Pacella, DE '044 or Miliotis discloses corresponding subject matter.

Appellants thus respectfully submit that the rejection of claim 24 should be withdrawn.

With regard to the dependent claims, Appellants submit that these claims are allowable at least by virtue of their dependency on an allowable independent claim and also because they recite additional patentable subject matter.